

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MISSOURI PROVINCE EDUCATIONAL  
INSTITUTE

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1649

Decision No. CU 1845

Counsel for claimant:

Huger, and Cramer  
by William O. Cramer, Esquire

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by MISSOURI PROVINCE EDUCATIONAL INSTITUTE based on its interest in bonds issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by

enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

Claimant is a non-stock, non-profit educational institution incorporated under the laws of the State of Missouri. Accordingly, the Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

On the basis of evidence of record, the Commission finds that claimant is, and since prior to May 3, 1961, has been the owner of 3 bonds in the original face amount of 1,000 each issued by the Association of the Religious Community of the Company of Jesus of Bethlehem College of Havana, and known as 5-1/4% First Mortgage Six-Year Gold Bonds, due February 1, 1934, under an Agreement of May 22, 1928, with the Bankers Trust Company, Trustee. The bonds were secured by all of the Association's property in Cuba. The bonds in question are Nos. M0953, M0954, and M1258, evidenced by Deposit Receipts No. M1503 through M1505 inclusive. Additionally, the record reflects that claimant is the owner of Deposit Receipt No. D94, evidence of the ownership of bond No. 0056 in the original face amount of \$500.00. This Receipt was originally issued in the name of Mrs. Magdalena G. Schenk, a United States national since her birth in the United States. The Receipt is endorsed in blank and the record reflects that Mrs. Schenk died in 1959 or 1960, leaving the Receipt to her son, Rev. Ralph H. Schenk, S. J. who in turn gave it to the claimant prior to his death

in 1964. The evidence of record reflects that Rev. Schenk was a national of the United States since his birth in the United States until his death in 1964.

The record shows that the properties of the College were intervened by the Government of Cuba on May 3, 1961, by Resolution No. 4352 of the Directora Provincial de Educacion de la Havana (Provincial Educational Directors Office of Havana.) Therefore, claimant is entitled to file this claim based upon the bonds in question which represent a debt which was a charge upon intervened property as defined in Section 502(3) of the Act. (See Claim of Gustavus Basch, Claim No. CU-0972.)

The record reflects that on April 4, 1933, Cuba declared a moratorium on mortgage indebtedness, which was later extended to June 1942. On December 5, 1939, the maturity of the bonds was extended by the Association to February 1, 1944, and interest was reduced to 1-1/2% beginning February 1, 1939. On June 4, 1940, a new Cuban Constitution was adopted, having certain "Transitory Provisions" which extended the maturity date on mortgage indebtedness in excess of \$800,000 to June 30, 1970 and provided for interest at 1%, and amortization by certain annual installments.

On June 1, 1942, a "Procedure for Deposit" was entered into by the Association with Mississippi Valley Trust Company (now the Mercantile Trust Company) as Agent, and the bondholders. Those bondholders depositing their bonds under this Procedure received registered Deposit Receipts entitling them to payment of principal and interest according to the applicable schedule of the 1940 Transitory Provisions, without subsequent presentation of the bonds. The record shows that the last principal payment made was that due on June 30, 1958, leaving a principal due on each of the \$1,000.00 bonds of \$449.03 and on the \$500.00 bond of \$224.52, and the last interest payment made was that due on February 1, 1959. Thereafter, the Trustee declared the principal due and payable in accordance with the provisions of the Agreement of 1928.

The Commission finds that the amount of the unpaid indebtedness on claimant's bonds on May 3, 1961, the date of loss, was \$1,607.10 including the principal amount of \$1,571.61 and the interest due on May 3, 1961, in the amount of \$35.49.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from May 3, 1961, the date of loss, to the date on which provisions are made for settlement thereof.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that MISSOURI PROVINCE EDUCATIONAL INSTITUTE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Six Hundred Seven Dollars and Ten Cents (\$1,607.10) with interest thereon at 6% per annum from May 3, 1961 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

15 MAY 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The bonds subject of this certification of loss may have been returned and no payment should be made until they are resubmitted.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)